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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,676	06/15/2001	Martin Maubach	225/49626	6524

7590 12/12/2002

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EXAMINER

WERNER, FRANK E

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NUMBER *	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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14

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on Oct. 7, 2002
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 6-13 is/are pending in the application.
- Of the above, claim(s) 8-10 and 12 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 6, 7, 11 and 13 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

1. Claims 6, 7, 11, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re base claims 6, 11, 13, no vehicle structure (wheels, frame, top, sidewalls, etc.) has been set forth; the meaning of lines 3 and 4 in claim 6; of lines 5 and 6 in claim 11; and of lines 9 and 10 of claim 13 is not understood; further, it is not understood where (and how) the door is structurally located and mounted; lastly, no means has been set forth to secure the ramp in an upright position.

Re claim 7, it is not understood where the vertically displaceable pivot mounting structurally is located and what function is performed thereby.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 7, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the British Patent (,152) in view of Ressler (,413) or the French Patent (,362).

The British Patent discloses a lowered floor section 19 mounted in the floor of a vehicle (page 5, lines 12-16) and ramp 30 pivotally mounted on the floor section for movement between the claimed positions, but the ramp is not pivotally mounted at the outside of the floor section and the floor section does not support the wheelchair which is disclosed by Ressler (46, 44A, 42, 71, etc.) or the French Patent (17, 16, 33, 3, etc.)

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and in view of the same, it would have been obvious to have mounted the ramp pivotally outside the floor section depending on the requirements of ^{the} vehicle and to have placed the ramp in an upright secured position in order to provide space for the wheelchair as taught by either secondary reference. Re claim 7, it would have been obvious to have substituted a conventional vertically moving pivotal mounting, if desired, depending on the end result desired.

4. Claims 8-10 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 13.

5. Applicant's arguments filed Oct. 7, 2002 have been fully considered but they are not persuasive.

Re the "Remarks", the following should be noted: "The claimed subject matter, not the specification, is the measure of invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art¹ (and "112" rejections). In re Self, 213 USPQ 1, 5 (CCPA); In re Priest, 199 USPQ 11, 15 (CCPA 1978). Re the "Remarks" on pages 4 to 6, no ground surface has been claimed; moreover, each of the prior art applied above (and in the previous action) is directed to a pivotally mounted ramp that is folded into a storage position inside^{of} a vehicle and accordingly the reference combination is obvious, analogous and combinable.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. This application contains claims 8-10 and 12 drawn to an invention non-elected without traverse in Paper No. 12. A complete response to the final rejection must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144) MPEP 821.01.

8. Any inquiry concerning this communication should be directed to F. E. Werner at telephone number (703) 308-1140.

Summary:

Claims 6, 7, 11 and 13 are rejected.

Claims 8-10 and 12 are withdrawn.

Final Rejection – SSP 3 mos.

Werner/kl
December 9, 2002

Frank E. Werner
12/02
3652